

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LEON PULLEN,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent,

No. 4:20-CV-900 RWS

MEMORANDUM AND ORDER

Before the Court is movant's motion to vacate, set aside or correct sentence brought pursuant to 28 U.S.C. § 2255. Also before the Court is movant's motion to supplement and motion for extension of time to supplement. For the reasons outlined below, movant will be provided time to amend his motion to vacate.

Background

On July 28, 2010, movant pled guilty to: four counts of Deprivation of Rights Under Color of Law in violation of 18 U.S.C. § 242; Conspiracy to Violate Deprivation of Rights Under Color of Law in violation of 18 U.S.C. § 241; Conspiracy to Commit Interference with Commerce by Threats or Violence in violation of 18 U.S.C. § 1951; Interference with Commerce by Threats or Violence in violation of 18 U.S.C. §§ 1951 and 1952; Tampering with a Witness in violation of 18 U.S.C. § 1512(b)(3); and Making False Statements in violation of 18 U.S.C. § 1001.

On January 28, 2011, the Court sentenced movant to a total term of 300 months' imprisonment and five years of supervised release. Movant appealed to the Eighth Circuit Court of Appeals. *Pullen v. United States*, No. 11-1317 (8th Cir. 2012). The Court of Appeals dismissed the appeal pursuant to Fed.R.App.P.42(b) after both movant and the Assistant United States

Attorney in the action consented to its dismissal. An amended judgment was entered in the District Court on March 30, 2011, changing the restitution amount.

On June 29, 2020, movant filed the instant motion to vacate in his criminal action, seeking relief under the new Supreme Court cases of *United States v. Davis*, 139 S.Ct. 2319 (2019) and *Rehaif v. United States*, 139 S.Ct. 2191 (2019). On July 7, 2020, movant filed a motion to supplement his motion to vacate. Movant filed a motion of extension of time on August 10, 2020, again seeking to supplement his motion to vacate. Because the document is not brought on a court form proper for filing motions to vacate, the Court will require movant to amend his motion to properly set forth his grounds for relief.

Discussion

Movant's motion to vacate has not been drafted in a manner that complies with the Federal Rules. As a result, the Court will direct petitioner to submit an amended motion to vacate on a court form.

Movant will be required to file an amended motion to vacate, on a court-form, containing all of the allegations he wishes to bring against the government. Simply put, **all** claims in this action must be included in one, centralized motion. Movant's claims must be stated in a succinct manner and any accompanying arguments should be accompanied by specific grounds for relief.

The Federal Rules require clarity in pleadings, including pleadings from pro se parties. Rule 2(c) of the Rules Governing Habeas Corpus Cases requires that a habeas petition "(1) specify all the grounds for relief available to the petitioner; (2) state the facts supporting each ground; (3) state the relief requested; [and] (4) be printed, typewritten, or legibly handwritten..." Rule 2(d) requires that the petition be drafted on the standard form or to substantially follow the form.

Rule 8(a) of the Federal Rules of Civil Procedure requires pleadings in the federal courts to contain a short and plain statement of the claim showing that the pleader is entitled to relief . . . Rule 8 is applicable to habeas actions pursuant to Rule 12 of the Rules Governing § 2254 Cases.

Movant is warned that the filing of the amended motion to vacate **completely replaces** the original and any supplemental motions or memoranda and claims that are not re-alleged are deemed abandoned. Movant's failure to file an amended motion to vacate within the thirty (30) day time period will result in a dismissal of this action, without prejudice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk shall mail to movant a form for filing a motion to vacate pursuant to 28 U.S.C. § 2255.


IT IS FURTHER ORDERED that movant shall utilize the form and submit an amended motion to vacate that complies with this Memorandum and Order within thirty (30) days of the date of this Memorandum and Order.

IT IS FURTHER ORDERED that movant's failure to amend his motion to vacate in accordance with the instructions set forth in this Memorandum and Order will result in a dismissal of this action without prejudice.

IT IS FURTHER ORDERED that movant's motion to supplement [Doc. #2] is **DENIED**.

IT IS FURTHER ORDERED that movant's motion for extension of time to supplement [Doc. #4] is **DENIED AS MOOT**.

Dated this 17th day of August, 2020.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE